THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10990 OF 2006

ORDER:

The second respondent-Collector & District Magistrate, Visakhapatnam, issued notification dated 27.5.2006, proposing to auction the leasehold rights to sell Indian made Foreign Liquor/Foreign Liquor by Shop under Rule 5 of the Andhra Pradesh Excise (Lease of Right of Selling by Shop Conditions of Licence) Rules, 2005 (for short "the Rules"), for different areas in Visakhapatnam district, including Chodavaram Mandal.

The petitioner, who claims to be one of the intending bidders in respect of a shop in K. Kotapadu Mandal, filed this writ petition, questioning the alleged action of the respondents in fixing different upset prices for different shops in Chodavaram Mandal.

It is not in dispute that so far as Chodavaram Mandal is concerned, fourteen shops were notified fixing different upset prices. It is contended by the petitioner that once the area/locality is shown mentioning the name of the village, it is open to the successful bidder to select a suitable premises for locating the shop at any place in the village and, therefore, failure on the part of the respondents to furnish the specific area for each shop is not in conformity with the statutory rules. It is also contended that the notification dated 27-5-2006 is vitiated on account of the said omission and, therefore, the same is liable to be set aside.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition & Excise, appearing for the respondents.

In the counter-affidavit it is stated by the respondents that though the petitioner submitted his tender for one of the shops shown at Gazette Sl.No.182, he could not succeed. It is also explained that the upset price for the shops notified in Chodavaram was arrived at

basing on the lease amount offered by the successful bidders in the previous years i.e., 2005-06. In the entire State of Andhra Pradesh, upset prices were fixed basing on the amounts offered in the previous year, following the formula as under:

> "Lease amount offered by the successful auction purchaser during 2005-06 x 2 + 20% of the lease amount offered during 2005-06"

There is no change in the number of shops notified in the Chodavaram village and, therefore, upset prices were fixed solely basing on the price fetched during the previous year.

As can be seen from the impugned notification, 14 shops were notified in Chodavaram Mandal. Out of the said 14 shops, 7 were notified in Chodavaram village itself, describing them as shop Nos.1 to 7. The other 7 shops were notified in other villages. It is also clear from the counter-affidavit that even in the previous year, 7 shops were notified in Chodavaram village and licences were granted. It is clear from the counter-affidavit that no participant had raised any doubt as to the demarcation of the area of each shop, and nothing has been placed before this Court to show that there was any ambiguity in identifying the shops. As a matter of fact, the petitioner himself never raised any objection before conducting auction. On the other hand, the petitioner appears to have submitted his tender in respect of a shop notified at Gazette Sl. No.182, situated in K. Kotapadu Mandal. Neither he participated in respect of shops notified in Chodavaram Mandal nor he was a lessee even during the previous year in Chodavaram Mandal.

Viewed from any angle, the writ petition is misconceived and appears to be only an attempt by an unsuccessful bidder to cause loss to the rival traders.

The writ petition is accordingly dismissed. No costs.

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(G. ROHINI, J.

4th September, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10990 OF 2006

4th September, 2006.

Between:

Sri Naidu Srinivasa Rao. .. Petitioner.

And

The Government of A.P.,
represented by its Secretary,
Prohibition & Excise Department,
Hyderabad, AP and others. .. Respondents.